



2013 DRAFTING REQUEST

Bill

Received: **4/2/2013** Received By: **mduchek**
 Wanted: **As time permits** Same as LRB: **-2058**
 For: **Glenn Grothman (608) 266-7513** By/Representing: **Adam Gibbs**
 May Contact: Drafter: **mduchek**
 Subject: **Occupational Reg. - misc** Addl. Drafters:
 Extra Copies:

Submit via email: **YES**
 Requester's email: **Sen.Grothman@legis.wisconsin.gov**
 Carbon copy (CC) to: **michael.gallagher@legis.wi.gov**

Pre Topic:

No specific pre topic given

Topic:

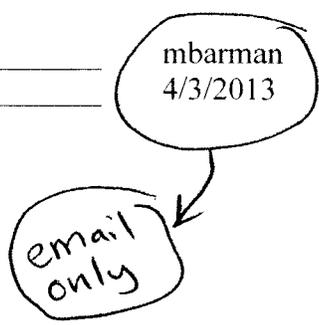
Changes to physician informed consent

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 4/3/2013			_____			
/1	mduchek 4/3/2013	scalvin 4/3/2013	rschluet 4/3/2013	_____	sbasford 4/3/2013	sbasford 4/3/2013	State S&L
/2				_____	mbarman 4/3/2013	rose 4/3/2013	State S&L



FE Sent For:

at
intro

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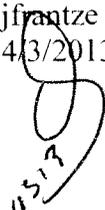
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/1		scalvin 4/3/2013	jfrantze 4/3/2013	_____	sbasford 4/3/2013	sbasford 4/3/2013	State S&L

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*1/2 sac
04/03/2013*

4513

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*Jacket
for
Senate*

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/?	mduchek	1/1 sac 04/03/2013	<i>[Signature]</i>	4/3			

FE Sent For:

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2057/1

MED:) : ...

SAC

2013 BILL

Now

1 AN ACT ^{gen act} ...; relating to: the duty of physicians to inform patients of treatment
2 options.

Analysis by the Legislative Reference Bureau

Under Wisconsin’s physician informed consent law, a physician who treats a patient has a duty to inform the patient about the availability of all alternate, viable medical modes of treatment and the benefits and risks of those treatments, subject to certain exceptions. A physician who fails to so inform a patient about modes of treatment may be held civilly liable for damages under tort law. The Wisconsin Supreme Court has employed a “reasonable patient standard” to determine whether a physician has fulfilled his or her duty. Under the reasonable patient standard, a physician must disclose information necessary for a reasonable person in the patient’s position to make an intelligent decision with respect to the choices of treatment. The Wisconsin Supreme Court has also held that the duty to inform a patient about alternate modes of treating the patient’s condition includes the duty to inform a patient about alternate modes of diagnosing the patient’s condition.

This bill instead provides that any physician who treats a patient has a duty to inform the patient about the availability of reasonable alternate medical modes of treatment and the benefits and risks of those treatments, and provides that the “reasonable physician standard” is the standard for informing a patient under the physician informed consent law. The bill provides that the reasonable physician standard requires the disclosure only of information that a reasonable physician in the same or a similar medical specialty would know and disclose under the circumstances. The bill also provides that the physician’s duty does not require the



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2057

MED:sac

2

2013 BILL

Now

gen act

1 AN ACT *to repeal* 448.30 (1); *to amend* 448.30 (intro.); and *to create* 448.30 (7)
2 of the statutes; **relating to:** the duty of physicians to inform patients of
3 treatment options.

Analysis by the Legislative Reference Bureau

Under Wisconsin's physician informed consent law, a physician who treats a patient has a duty to inform the patient about the availability of all alternate, viable medical modes of treatment and the benefits and risks of those treatments, subject to certain exceptions. A physician who fails to so inform a patient about modes of treatment may be held civilly liable for damages under tort law. The Wisconsin Supreme Court has employed a "reasonable patient standard" to determine whether a physician has fulfilled his or her duty. Under the reasonable patient standard, a physician must disclose information necessary for a reasonable person in the patient's position to make an intelligent decision with respect to the choices of treatment. The Wisconsin Supreme Court has also held that the duty to inform a patient about alternate modes of treating the patient's condition includes the duty to inform a patient about alternate modes of diagnosing the patient's condition.

This bill instead provides that any physician who treats a patient has a duty to inform the patient about the availability of reasonable alternate medical modes of treatment and the benefits and risks of those treatments, and provides that the "reasonable physician standard" is the standard for informing a patient under the physician informed consent law. The bill provides that the reasonable physician standard requires the disclosure only of information that a reasonable physician in

BILL

the same or a similar medical specialty would know and disclose under the circumstances. The bill also provides that the physician's duty does not require the disclosure of information about alternate medical modes of treatment for conditions that the physician does not believe the patient has at the time the physician informs the patient.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 448.30 (intro.) of the statutes is amended to read:

2 **448.30 ~~Information on alternate modes of treatment~~ Informed**
3 **consent.** (intro.) Any physician who treats a patient shall inform the patient about
4 the availability of all reasonable alternate, viable medical modes of treatment and
5 about the benefits and risks of these treatments. The reasonable physician standard
6 is the standard for informing a patient under this section. The reasonable physician
7 standard requires disclosure only of information that a reasonable physician in the
8 same or a similar medical specialty would know and disclose under the
9 circumstances. The physician's duty to inform the patient under this section does not
10 require disclosure of:

11 **SECTION 2.** 448.30 (1) of the statutes is repealed.

12 **SECTION 3.** 448.30 (7) of the statutes is created to read:

13 **448.30 (7)** Information about alternate medical modes of treatment for
14 conditions that the physician does not believe the patient has at the time the
15 physician informs the patient.

16 **SECTION 4. Initial applicability.**

Barman, Mike

From: Gallagher, Michael
Sent: Wednesday, April 03, 2013 2:51 PM
To: LRB.Legal
Subject: LRB-2057/2

Mike Duchek is out at a meeting. In MED's stead, Sen. Grothman's office left a voicemail for me asking that the electronic version of the -2057 be sent to the Sen.Grothman e-mail address. Can you take care of that? Thanks.

The contact is Adam in Senator Grothman's office, 6-7513